

ACKNOWLEDGEMENT OF ADVICE AS TO
CONSTITUTIONAL RIGHTS, BEFORE
JUDGE LEONARD B. SAND

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

08CRIM 747

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UNITED STATES OF AMERICA :

-against- :

Emmanuel Cruz-Santos :

08 CR. _____ (LBS)

Defendant. :

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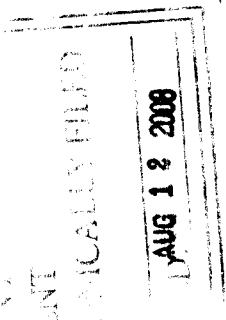
I have been informed in open court on this date of my constitutional rights in the above-entitled case, and I have read and fully understand the following statement.

I have received a copy of the Indictment or Information and understand the nature of the charges made against me. I have told my attorney all I know about the matters referred to in it.

My attorney has explained to me the nature of the charges against me, my constitutional rights, and the punishment that could be imposed by the court upon my plea of guilty.

I understand that if I plead not guilty to any count or counts in the Indictment or Information:

- (a) I would be presumed under the law to be innocent of the charges against me in such count or counts;
- (b) I would be entitled to a speedy, public trial by an impartial jury at which time I would have the right to the assistance of counsel – with counsel provided at no cost to me if I could not afford counsel – and in the trial, the burden would be upon the Government to establish my guilt beyond a reasonable doubt to the unanimous satisfaction of all 12 jurors;
- (c) Upon such trial (i) I would be entitled to remain silent and no inference could be drawn against me because of such silence; (ii) I could, if I wished, testify on my own behalf; (iii) I would be entitled to confront and cross-examine all witnesses against me; and (iv) I would be entitled to compulsory process of the court to obtain witnesses to testify and evidence to be offered in my defense.



I understand that if my plea of guilty to any count or counts is accepted by the Court, I give up to foregoing rights with respect to such count or counts and the Court will have the same power to sentence me as if a jury had brought in a verdict of guilty with respect to such count or counts.

I have discussed with my attorney the sentencing guidelines. I am aware that the sentencing guidelines allow the Court to take into consideration the actual conduct in which I engaged and all of the facts and circumstances concerning my conduct and my criminal history. I understand that the Court will use the Guidelines range as a relevant factor, but the Court must also make an individualized assessment based on the facts presented in my case after receiving the presentence report. I understand that I will not be able to withdraw my plea on the ground that my lawyer's prediction as to the guideline range proved to be inaccurate, or on the ground that my lawyer's prediction as to whether or not the Court would sentence me within the guideline range proved to be inaccurate. I understand, however, that I cannot, in any event, be sentenced to a greater sentence than the statutory maximum.

I understand that in connection with my plea of guilty, the Court may ask me questions about the offense to which I am pleading guilty, and that if I answer those questions under oath, on the record and in the presence of my attorney, that if my answers are false, they may be used against me later in a prosecution for perjury or false statements.

My decision to plead guilty is freely and voluntarily made. I have not been induced to plead guilty to any count by any promises or by any statement that I would receive leniency or a lesser sentence. I have not been induced to plead guilty by any threats, force, coercion, pressure or fear.

My willingness to plead guilty at this time (does) (does not) result from any discussions between the attorney for the Government and myself or my attorney. There is (an) (no) agreement between the attorney for the government and myself or my attorney regarding my plea of guilty. [The elements of any agreement must be stated on the record in the presence of the Court.]

I am pleading guilty because, after discussing the case with my attorney, I believe that I am guilty.

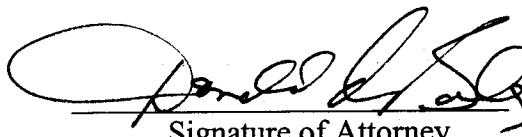
My attorney has advised me that he does not believe that there are any meritorious defenses to the count or counts to which I am pleading guilty and that after discussing the facts with me, he does not believe that any of my constitutional rights have been violated in connection with any interrogation of me or any statement or confession made by me, or in connection with my property, arrest or these proceedings.

I am not under the influence of any substance, such as narcotics, drugs, pills, medicine or alcohol, that would affect my ability to understand the nature and consequences of my action in pleading guilty.


Signature of Defendant

Dated: 8/12/08

I, the attorney for the above-named defendant, have reviewed the foregoing with him, have explained to him the nature of the charges against him, his constitutional rights, and the punishment that could be imposed upon his guilty plea. I have also advised him that in my opinion he does not have any meritorious defense to the count or counts to which he is pleading guilty and that his constitutional rights have not been violated.


Signature of Attorney

Dated: 8/12/08